

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

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<b>In re: PHARMACEUTICAL INDUSTRY</b>	)	<b>MDL No. 1456</b>
<b>AVERAGE WHOLESALE PRICE LITIGATION</b>	)	<b>Master File No. 01-12257-PBS</b>
	)	<b>Subcategory Case No. 06-11337</b>
	)	
<b>THIS DOCUMENT RELATES TO:</b>	)	<b>Hon. Patti B. Saris</b>
	)	
<i>State of California ex rel. Ven-A-Care of the Florida</i>	)	
<i>Keys, Inc. v. Abbott Labs, Inc. et al.,</i>	)	
Civil Action No. 03-11226-PBS	)	
	)	

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**DECLARATION OF CHRISTOPHER C. PALERMO IN SUPPORT OF  
DEFENDANTS MYLAN INC. AND MYLAN PHARMACEUTICALS INC.'S  
MOTION FOR PARTIAL SUMMARY JUDGMENT**

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**CHRISTOPHER C. PALERMO**, declares, pursuant to 28 U.S.C. § 1746, that:

1. I am a member of the law firm of Kelley Drye & Warren LLP, national counsel for Defendants Mylan Inc. (formerly known as Mylan Laboratories Inc.) and Mylan Pharmaceuticals Inc. (collectively, "Mylan"). I am admitted to practice law in the State of New York and have been admitted *pro hac vice* in this action.

2. I make this declaration in support of Mylan's Motion for Partial Summary Judgment. I make this declaration from my own personal knowledge of the facts and circumstances set forth herein. The source of my knowledge is my review of Kelley Drye & Warren LLP's files with respect to this litigation, including my review of the documents annexed as exhibits hereto.

3. Annexed hereto as Exhibit A is a true and correct copy of an Order and Final Judgment in the action entitled *State of Connecticut, et al. v. Mylan Laboratories Inc., et*

*al.*, Civ. No. 1:98-CV-3115-tfh (D.D.C.), bearing Bates numbers CAMylan04005427 – CAMylan04005441.

4. Annexed hereto as Exhibit B is a true and correct copy of the complaint filed by the Federal Trade Commission (“FTC”) in the action entitled *FTC v. Mylan Laboratories Inc., et al.*, Civ. No. 1:98-CV-3114-TFH (D.D.C.), bearing Bates numbers CAMylan04005148 – CAMylan04005171.

5. Annexed hereto as Exhibit C is a true and correct copy of the Third Amended Complaint filed in the action entitled *State of Connecticut, et al. v. Mylan Laboratories Inc., et al.*, Civ. No. 1:98-CV-3115-tfh (D.D.C.), bearing Bates numbers CAMylan04005534 – CAMylan04005601.

6. Annexed hereto as Exhibit D is a true and correct copy of a Notice of Settlement filed in the Multidistrict Litigation entitled *In re: Lorazepam and Clorazepate Antitrust Litigation*, MDL No. 1290 TFH (D.D.C.), bearing Bates numbers CAMylan04005195 – CAMylan04005426.

7. Annexed hereto as Exhibit E is a true and correct copy of an April 27, 2001 Order Preliminarily Approving Proposed Settlements entered in the action entitled *In re: Lorazepam and Clorazepate Antitrust Litigation*, MDL No. 1290 TFH (D.D.C.), bearing Bates numbers CAMylan04005442 – CAMylan04005451.

8. Annexed hereto as Exhibit F is a true and correct copy of the First Amended Complaint in this action filed on or about August 25, 2005.

9. Annexed hereto as Exhibit G is a true and correct copy of Defendants Mylan Laboratories Inc.’s and Mylan Pharmaceuticals Inc.’s Objections and Responses to Plaintiff’s First Set of Interrogatories dated November 15, 2007.

10. Annexed hereto as Exhibit H is a true and correct copy of excerpts of the 30(b)(6) deposition of Harry A. Korman, taken on November 26, 2007.

11. Annexed hereto as Exhibit I is a true and correct copy of excerpts of the 30(b)(6) deposition of Brian Roman, taken on August 2, 2007.

12. Annexed hereto as Exhibit J is a true and correct copy of a price notification letter, dated March 15, 1995, bearing Bates numbers CAMylan02529434-CAMylan02529437.

13. Annexed hereto as Exhibit K is a true and correct copy of a price notification letter, dated February 5, 1998, bearing Bates numbers CAMylan00118379-CAMylan00118382.

14. Annexed hereto as Exhibit L is a true and correct copy of a price notification letter, dated January 18, 2000, bearing Bates numbers CAMylan00262839-CAMylan00262842.

15. Annexed hereto as Exhibit M is a true and correct copy of a price notification letter, dated April 3, 2001, bearing Bates numbers CAMylan002856-CAMylan00262857.

16. Annexed hereto as Exhibit N is a true and correct copy of a price notification letter, dated March 31, 2002, bearing Bates number CAMylan00262866.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 25, 2009.

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/s/ Christopher C. Palermo  
Christopher C. Palermo

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing was delivered to all counsel of record by electronic service pursuant to Paragraph 11 of Case Management Order No. 2, by causing to be sent, on November 25, 2009, a copy to LexisNexis File & Serve for posting and notification to all parties.

/s/ Christopher C. Palermo  
Christopher C. Palermo